

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

GRADIENT ENTERPRISES, INC.,

Plaintiff,

vs.

SKYPE TECHNOLOGIES S.A. and SKYPE, INC.,

Defendants.

**[PROPOSED]
SCHEDULING ORDER**

Civ. Action No.: 10-CV-6712

Pursuant to the order of the Hon. David G. Larimer, referring the above case to the undersigned for pretrial procedures and the entry of a scheduling order as provided in Fed. R. Civ. P. Rule 16(b) and Local Rule 16.1(a), and a conference having been held on **June 5, 2012** with counsel relative to the matter, it is ORDERED that:

1. The parties do not consent to Magistrate Judge jurisdiction.
2. All mandatory disclosure requirements found in Rule 26(a)(1) of the Federal Rules of Civil Procedure, as well as any objections to the mandatory disclosure requirements, shall be completed on or before **June 22, 2012**.
3. All motions to join other parties and to amend the pleadings shall be filed on or before **December 14, 2013**. Any third-party action shall be commenced on or before **December 14, 2013**.
4. All factual discovery in this case, including depositions, shall be completed on or before **May 24, 2013**.
5. The parties shall provide expert reports pursuant to Rule 26 as to issues on which they carry the burden of proof no later than **July 2, 2013**. The parties shall provide rebuttal reports pursuant to Rule 26 no later than **August 2, 2013**.
6. All motions to compel discovery shall be filed at least seven (7) days prior to the

respective discovery cutoff.

7. The parties are in the process of negotiating a Protective Order pursuant to Rule 26(c).

8. No changes to the limitations on discovery will be permissible unless agreed to by the parties, or as ordered by the Court.

9. Dispositive motions, if any, shall be filed no later than **October 14, 2013**.

10. The parties agree to pursue a judicially supervised settlement conference or other alternative dispute resolution at the conclusion of discovery unless the parties agree to conduct such efforts at an earlier date.

11. A jury trial will be required. The parties' estimate for the length of trial is 2 weeks.

12. Claim Construction Schedule

a. The parties will exchange terms for claim construction no later than **November 7, 2013**, and exchange preliminary proposed claim constructions no later than **November 20, 2013**.

b. The parties will submit opening claim construction briefs no later than **January 11, 2013**. Reply Claim Construction Briefs will be served no later than **January 25, 2013**. Rebuttal claim construction briefs will be served not later than **February 8, 2013**.

c. The Court will hold a Claim Construction hearing on **March ____**, **2013**.

SO ORDERED.

Dated: _____, 2012
Rochester, New York

HON. JONATHAN W. FELDMAN
UNITED STATES MAGISTRATE JUDGE